

1 Mark Kleiman (SBN 115919)  
2 mark@krlaw.us  
3 KLEIMAN / RAJARAM  
4 12121 Wilshire Blvd., Ste. 810  
5 Los Angeles, CA 90025  
6 Tel: 310-392-5455 / Fax: 310-306-8491

7 Collin Poirot (NY 5673405)  
8 (*pro hac vice pending*)  
9 cpoirot.law@gmail.com  
10 2603 Oak Lawn, Suite 300  
11 Dallas TX 75219  
12 214-392-2281

13 Attorneys for Defendants  
14 CODEPINK WOMEN FOR PEACE  
15 CODEPINK ACTION FUND

16 UNITED STATES DISTRICT COURT  
17 FOR THE CENTRAL DISTRICT OF CALIFORNIA  
18 WESTERN DIVISION

19 RONEN HELMANN, on behalf of  
20 all others similarly situated,

21 Plaintiff,

22 v.

23 CODEPINK WOMEN FOR  
24 PEACE, a California entity,  
25 CODEPINK ACTION FUND, a  
26 California entity, HONOR THE  
27 EARTH, a Minnesota entity,  
28 COURTNEY LENNA SCHIRF, and  
REMO IBRAHIM, d/b/a  
PALESTINIAN YOUTH  
MOVEMENT, and JOHN AND  
JANE DOES 1-20,

Defendants.

Case No. 2:24-cv-05704-SVW-PVC

**[CORRECTED]**

DEFENDANTS' CODEPINK WOMEN  
FOR PEACE AND CODEPINK ACTION  
FUND, NOTICE OF MOTION AND  
MOTION TO DISMISS PLAINTIFF'S  
THIRD AMENDED CLASS ACTION  
COMPLAINT

Judge: Hon Stephen V. Wilson  
Hearing Date: July 28, 2025  
Time: 1:30 p.m.  
Courtroom: 10A

1 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

2 PLEASE TAKE NOTICE THAT on July 28, 2025, at 1:30 p.m. or as soon  
3 thereafter as this matter may be heard in Courtroom 10A of the above-entitled Court  
4 located at First Street Courthouse, 350 W. 1st Street, Courtroom 10A, 10th Floor,  
5 Los Angeles, CA 90012, Defendants CODEPINK WOMEN FOR PEACE and  
6 CODEPINK ACTION FUND, will and hereby do move the Court to dismiss  
7 Plaintiff's Third Amended Class Action Complaint pursuant to Fed. R.Civ.Pro  
8 12(b)(1) and 12(b)(6)

9 This motion is based upon this Notice of Motion, the attached Memorandum  
10 of Points & Authorities, the files and records in the case, and any evidence or  
11 argument that may be presented at a hearing on this matter.

12 Respectfully submitted,

13 Dated: July 17, 2025

KLEIMAN / RAJARAM

14  
15  
16 By: 

17 Mark Kleiman

18 Attorneys for Defendants  
19 CODEPINK WOMEN FOR PEACE  
20 CODEPINK ACTION FUND  
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1 **MEMORANDUM OF POINTS & AUTHORITIES**

2 **I. INTRODUCTION**

3 CodePink Defendants move to dismiss Plaintiff’s Third Amended Complaint  
4 (“TAC”). This Court has already ruled that the facts alleged by Plaintiff do not  
5 plausibly plead a theory of agency accountability that would render CodePink  
6 vicariously liable for the acts of any individual protester, even if they *were*  
7 CodePink members. Dkt. 105, p. 30. Because the TAC includes no new factual  
8 allegations against CodePink with regard to agency, the law of the case is that  
9 CodePink may be held liable only for the social media posts promoting the protest.<sup>1</sup>

10 In sum, Plaintiff dislikes CodePink’s support for Palestinians and opposition  
11 to Israel’s illegal occupation of the West Bank and ongoing genocide in Gaza.  
12 Plaintiff sued to punish CodePink for organizing a protest against real estate  
13 company My Home in Israel’s (“MHI”) illegal sale of racially-restricted land in the  
14 illegal, Jewish-only settlements in occupied Palestine. Most importantly, MHI’s real  
15 estate sale was never advertised as a religious event nor claimed any religious  
16 character *whatsoever*. See TAC fn. 102, ¶ 393.

17 Plaintiff never alleges that CodePink knew or should have known that the real  
18 estate sale had religious significance for him nor the other attendees. For that matter,  
19 Plaintiff’s own exhibit of the advertisement for the sale shows that the event was  
20 advertised as “the Mega-Event of the Year”, promising financing, legal, and funds  
21 transfer information, and offering special discounts for “event participants”—in  
22 other words, it was advertised as a purely transactional, economic activity. See TAC  
23 ¶ 138. The promotional materials say nothing at all about religion and do not  
24 mention “Aliyah”. *Id.* As Plaintiff states in the TAC, the ad for the MHI event “was

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26 <sup>1</sup> Richardson v. United States 841 F.2d. 993, 996 (9th Cir. 1988). In the unlikely  
27 event that the Court reconsiders its prior ruling that there is no basis pled for  
28 imposing vicarious liability CodePink defendants incorporate by reference their  
argument at Dkt. 49, pp. 22-23.



1 merely a common ad for residential real estate.” Id. Plaintiff offers no basis  
2 whatsoever to find that CodePink knew or should have known that he and other  
3 attendees intended to participate as a form of religious exercise, rather than as a  
4 secular activity of purchasing real estate.

5 Furthermore, the event in question was not the first MHI real estate sale that  
6 has occurred in America. Indeed, MHI’s previous real estate events have been  
7 investigated by the New Jersey Division on Civil Rights for possible “discrimination  
8 on the basis of race, religion, ancestry, national origin and other protected  
9 characteristics.”<sup>2</sup> MHI’s real estate events have drawn protests throughout the  
10 country precisely because MHI is no mere real estate company, but is specifically  
11 engaged in selling illegally-occupied and racially-restricted lands in the West Bank,  
12 and has repeatedly been accused of aiding and abetting apartheid and genocide. The  
13 protest against MHI’s real estate sale at Adas Torah occurred within this context,  
14 and was no different from the protests outside of MHI’s prior events. CodePink’s  
15 intent in promoting this particular protest is abundantly clear from the plain text of  
16 its social media posts: to “advocate the stop of homes being sold on stolen  
17 Palestinian land.” TAC ¶ 145. This political advocacy and speech is squarely  
18 protected by the First Amendment, and Plaintiff’s claim must be dismissed.

19 **II. FACTS ALLEGED**

20 Plaintiff alleges that CodePink promoted a protest of the MHI event in Los  
21 Angeles through its social media account. Specifically, Plaintiff alleges that  
22 CodePink was a collaborator on an Instagram post “claiming that ‘A MEGA  
23 ZIONIST REAL ESTATE EVENT IS IN LA THIS WEEK!’” and urging viewers to  
24 “HELP ADVOCATE THE STOP OF HOMES BEING SOLD ON STOLEN  
25 PALESTINIAN LAND!” TAC ¶ 144-5. The addresses and dates of the MHI real

26 \_\_\_\_\_  
27 <sup>2</sup> Arvind Dilawar, “Organizers of Israeli Real Estate Event in LA Under  
28 Investigation in New Jersey,” Sept. 4, 2024 (last accessed Oct. 22, 2024)  
<https://tinyurl.com/ysdkxc6r>.

1 estate events “were placed inside inverted red triangles.” TAC ¶ 149. Plaintiff  
2 alleges that “ Hamas and its supporters... have used inverted red triangles as a  
3 symbol for Hamas and to celebrate its use of violence against Jews and Israelis” and  
4 that “the inverted red triangle acts as a target designator to identify Jews and Jewish  
5 targets for extermination.” TAC ¶ 150-1. According to the source Plaintiff cites in  
6 the TAC as support for this alleged symbolic meaning, although the inverted red  
7 triangle can sometimes be used to signify Hamas or violent resistance “in many  
8 popular anti-Zionist memes and political cartoons,” it can also “be used innocuously  
9 in general pro-Palestine social media posts.” TAC fn. 47.

10 Plaintiff does not allege any facts to show that CodePink’s use of the red  
11 triangle was an instance of the former, rather than the latter. When coupled with  
12 plain text of the posts, which merely calls for advocacy, Plaintiff’s failure to allege  
13 any facts to suggest that this particular use of the red triangle was a call for extreme  
14 violence is facially implausible. Plaintiff also fails to allege that the public is  
15 generally aware of this alleged meaning of inverted red triangles, nor that he or  
16 anyone else actually viewed the CodePink post and interpreted it as designating  
17 “targets for extermination.”

18 Plaintiff states that CodePink expressed its understanding that “no religious  
19 services were scheduled at the time of the real estate sale,” that the protest at the  
20 MHI event was “a peaceful protest against the illegal sale of stolen land in Palestine  
21 in a synagogue,” and that “[c]ontrary to what the media is falsely reporting, the  
22 entrance was never blocked by anyone.” TAC ¶¶ 327-28, 322-3. Finally, Plaintiff  
23 states that “all three events continued at the Synagogue on June 23, 2024” but that,  
24 “upon information and belief,” some members were unable to attend. TAC ¶ 296.

25 Relieved of legally conclusory language and mere restatements of the alleged  
26 offenses’ elements, the facts asserted against CodePink boil down to First  
27 Amendment protected speech activity. None of the pled facts can support Plaintiff’s  
28

1 claim under the invoked statute, and in fact, the TAC includes facts that make it  
2 impossible for Plaintiff to plead this cause of action. For these reasons, the  
3 complaint should be dismissed with prejudice.

4 **III. STANDARDS OF REVIEW**

5 **A. Fed.R.Civ.Proc. 12(b)(6) Requires Facts Sufficient to Make Claims**  
6 **Plausible**

7 A complaint “must plead enough facts to state a claim to relief that is  
8 plausible on its face.” Cousins v. Lockyer, 568 F.3d 1063, 1067-68 (9th Cir. 2009)  
9 (internal quotation marks and citations omitted). A claim is facially plausible only  
10 when it “allows the court to draw the reasonable inference that the defendant is  
11 liable for the misconduct alleged.” Ashcroft v. Iqbal, 556 U.S. 662, 678, (2009)  
12 (internal quotation marks omitted). “[C]onclusory allegations of law and  
13 unwarranted inferences are insufficient to avoid . . . dismissal.” Cousins, 568 F.3d at  
14 1067 (internal quotation marks omitted). A court may reject as implausible  
15 allegations that are too speculative to warrant further factual development. Dahlia v.  
16 Rodriguez, 735 F.3d 1060, 1076 (9th Cir. 2013). The allegations must be enough to  
17 raise a right to relief above the speculative level. Bell Atl. Corp. v. Twombly, 550  
18 U.S. 544, 548 (2009). Allegations that are merely conclusory, are unwarranted  
19 deductions, or unreasonable inferences need not be accepted. Sprewell v. Golden  
20 State Warriors, 266 F.3d 979, 988 (9th Cir. 2001).

21 When the guesses, conclusory language, and innuendo are stripped away,  
22 what remains of Plaintiff’s allegations that are grounded in specific facts is this: (1)  
23 CodePink was one of several organizations which called for a demonstration to  
24 oppose a real estate event illegally offering land sales in the occupied West Bank;  
25 (2) CodePink’s social media posts promoted the demonstration, and invited its  
26 supporters to “help advocate” against the illegal sale; (3) CodePink included red  
27 inverted triangles in its social media posts promoting the protest, alongside text that  
28

1 called for *advocacy* against the illegal sale of stolen land; (4) that other actors  
2 including Hamas have used inverted red triangles to “identify Jews and Jewish  
3 targets for extermination”; and (5) that CodePink later stated that it had no idea that  
4 a synagogue would be holding religious services on a Sunday, that the protest itself  
5 was peaceful, and that none of its members blocked the entrance. These few facts do  
6 not make plausible the theory that CodePink intended to issue a true threat to  
7 Plaintiff or anyone else because of their exercise of religion.

8 **IV. ELEMENTS OF A VIOLATION OF 18 U.S.C. § 248(a)(2)**

9 The FACE Act was passed in 1994, when women’s health clinics were being  
10 bombed and their doctors murdered. A far lesser-known provision in the bill  
11 protects places of worship. The law’s “religious freedom” cause of action has so  
12 seldom been invoked that caselaw interpreting this provision is scarce. Defendants  
13 found no Ninth circuit cases where such a suit has been brought. Other circuits,  
14 however, have identified four elements required to plead a violation of 18 U.S.C. §  
15 248(a)(2): “Plaintiffs must demonstrate that Defendants used or attempted to use (1)  
16 force, threat of force, or physical obstruction; (2) with the intent to; (3) injure,  
17 intimidate, or interfere with a person; (4) *because* that person is exercising or is  
18 seeking to exercise his or her right of religious freedom at a place of religious  
19 worship.” New Beginnings Ministries v. George, 2018 WL 11378829, \*15  
20 (S.D.O.H. 2018) (emphasis added) (citing Lotierzo v. A Woman’s World Med. Ctr.,  
21 278 F.3d 1180, 1182 (11th Cir. 2002) (citations omitted)).

22 **A. 18 U.S.C. § 248(a)(2) Requires Specific Intent to Injure, Intimidate,**  
23 **or Interfere with a Person *Because* of Their Exercise of Religious**  
24 **Freedom**

25 This law requires specific intent. A claim for relief under 18 U.S.C. §  
26 248(a)(2) requires Plaintiff to allege facts plausibly showing that Defendants  
27 intended to injure, intimidate, or interfere with him *because* of his exercise of  
28

1 freedom of religion. 248(a)(2) requires that any threat of force or intimidation (or  
2 actual injury) must be intended to affect “any person lawfully exercising or seeking  
3 to exercise the First Amendment right of religious freedom at a place of religious  
4 worship”. Although the word “because” does not appear in the religious freedom  
5 subsection of the FACE Act the same way that it appears in the reproductive clinic  
6 subsection, the religious freedom subsection must also be construed as a specific  
7 intent offense in order to avoid absurd results. *See e.g., Sharpe v. Console*, 123  
8 F.Supp.2d 87, 90-1 (N.D.N.Y. 2000) (finding “Plaintiff’s interpretation of FACE’s  
9 *mens rea* standard (such that one only need show obstruction to prove intent) could  
10 lead to ridiculous results.”). A general intent requirement for a FACE Act violation  
11 would create a private cause of action any time construction blocked a place of  
12 worship’s entrances to repair the building; volunteer firefighters ordered  
13 congregants to evacuate for a fire drill; a nearby private event restricted public  
14 access; or in many other common scenarios. Only a specific intent *mens rea* can  
15 protect the Act from these absurd results.

16 Where, as here, the plain text of the statute produces an absurd or  
17 unreasonable result, the Court should not follow it and should instead look to  
18 legislative history to discern the statute’s purpose. Church of Scientology of  
19 California v. U.S. Dept. of Justice, 612 F.2d 417, 422 (9th Cir. 1979) (quoting U.S.  
20 v. American Trucking Ass’ns, 310 U.S. 534, 543 (1940) (when the plain text of a  
21 statute “led to absurd or futile results... this Court has looked beyond the words to  
22 the purpose of the act. Frequently...even when the plain meaning did not produce  
23 absurd results but merely an unreasonable one plainly at variance with the policy of  
24 the legislation as a whole, this Court has followed that purpose, rather than the  
25 literal words.” (internal quotations omitted)).

26 The FACE Act’s legislative history makes it abundantly clear that the  
27 religious expression subsection was intended to require a specific intent *mens rea*.

1 As one federal court noted, “there are no legislative findings related to the religious  
2 liberties provision...in an official congressional report. Instead, all that exist are  
3 Senator Hatch's statements made when he proposed the religious access  
4 amendment.” New Beginnings Ministries v. George, 2018 WL 11378829, \*6 (S.D.  
5 Ohio, Sept. 28, 2018). Senator Hatch (the amendment’s sponsor), explained: “the  
6 religious liberty amendment that I am offering is very straightforward. It would  
7 ensure that the first amendment right of religious liberty receives the same  
8 protection from interference that [FACEA] would give abortion...Through this  
9 amendment, religious liberty would also be protected against private intrusion-in  
10 exactly the same way that [FACEA] would protect abortion.”139 Cong. Rec.  
11 S15660, 1993 WL 470962 (Nov. 3, 1993). The only legislative history clearly  
12 dictates that the subsection be construed as equal in scope to the reproductive health  
13 clause—that it should be interpreted and applied “exactly the same way.” There is  
14 no record of any congressional debate or discussion that would support interpreting  
15 one subsection as a specific intent violation, and the second as applicable to any and  
16 all conduct that obstructs entry to any space used for religious worship, for any  
17 reason whatsoever.

18 A violation of the FACE Act’s religious exercise subsection therefore  
19 requires that Defendants act “*because* [Plaintiff] is exercising or is seeking to  
20 exercise his or her religious freedom.” New Beginnings Ministries v. George, 2018  
21 WL 11378829 \*3. Plaintiff has not plead facts making such a specific intent  
22 plausible in this case.

23 **V. ARGUMENT**

24 **A. Plaintiff Fails to State a Claim Under the FACE Act So the**  
25 **Complaint Must Be Dismissed Under Rule 12(b)(6)**

26 Plaintiff fails to allege facts that plausibly show a FACE Act violation.  
27 Although the “religious exercise” subsection of the FACE Act has not been  
28



1 addressed in this Circuit, the plain language does not encompass real estate sales  
2 events, even if they occur at a location that is normally used for religious purposes.

3 **1. Plaintiff Fails to Plausibly Allege Specific Intent Based**  
4 **on a Religious Exercise**

5 A violation of the FACE Act’s religious exercise subsection requires that  
6 Defendants act “*because* [Plaintiff] is exercising or is seeking to exercise his or her  
7 religious freedom.” New Beginnings Ministries v. George, 2018 WL 11378829 \*3.  
8 Plaintiff fails to plausibly allege Defendants protested the real estate sale *because* of  
9 Plaintiff’s exercise of religious freedom. Plaintiff does not allege CodePink even  
10 mentioned prayer, worship, Jews or Judaism, called for violence, physical force, or  
11 intimidation. Plaintiff’s only specific facts pled against CodePink are that the  
12 organization announced a “Mega Zionist Real Estate Event,” and encouraged  
13 supporters to “HELP US ADVOCATE THE STOP OF HOMES BEING SOLD ON  
14 STOLEN PALESTINIAN LAND.” TAC ¶¶ 144-5. No pled facts plausibly show  
15 CodePink intended to injure, restrict movement, or threaten violence against people  
16 coming to exercise religious freedom.

17 The only image Plaintiff incorporates here is an advertisement offers  
18 discounted prices, mortgage advice, and help with money transfers. Not a word is  
19 said about *Aliyah* or the Jewish religion. *See* TAC ¶ 138. Plaintiff’s previously-filed  
20 sources in the SAC show that the real estate event advertisement real estate made no  
21 mention of religion, prayer, worship, nor even of *Aliyah*. The event is described as a  
22 real estate opportunity, with discounts offered for participants. FAC n. 11, video.  
23 Nothing in the advertisement suggests the event was religious, and sources in the  
24 TAC show that Defendants were *unaware*, believing that “no religious services were  
25 scheduled” at the time. TAC ¶ 328. Plaintiffs fail to allege any facts suggesting that  
26 CodePink knew that religious worship would occur on a Sunday. At most, Plaintiff’s  
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1 allegations might show CodePink intended to advocate against the real estate sale,  
2 and to oppose an ongoing genocide.

3 The facts pled make it impossible for Plaintiff to plausibly allege that  
4 CodePink intended to injure, intimidate, or interfere with them because of his  
5 religious exercise.

6 **2. Plaintiff Fails to Plausibly Allege CodePink Used**  
7 **Threats of Force that Were True Threats and**  
8 **Undeserving of First Amendment Protection**

9 This Court has already held that Plaintiff fails to plausibly render CodePink  
10 liable for the acts of individual protesters. Therefore, Plaintiff must plausibly allege  
11 that CodePink’s social media posts, by themselves, are force, a threat of force, or a  
12 physical obstruction. As this Court has already held, “the posts do not involve  
13 ‘force’ or ‘physical obstruction’—they are purely speech-based communications.”  
14 Dkt. No. 105, p. 17.

15 The only speech prohibited by the FACE Act is that which uses “force or  
16 threat of force... [t]o intimidate or interfere with... or attempt to intimidate or  
17 interfere with any person lawfully exercising or seeking to exercise the First  
18 Amendment right or religious freedom at a place or religious worship.” 18 U.S.C.  
19 248(a)(2).

20 In addition to failing to plead either the specific intent that is required for a  
21 FACE Act violation (*see supra*, p. 8) or that Defendant intentionally injured,  
22 intimidated, or interfered with him (*see infra*, pp. 10-11), Plaintiff also fails to plead  
23 plausible facts showing the red triangle image satisfies the “true threat” standard.  
24 Even the ADL definition cited by Plaintiff acknowledges the triangle can be used  
25 innocuously. (TAC, ¶ 151, fn. 47) Where two different interpretations may be made  
26 of the same facts, Plaintiff must state further facts making the “true threat” claim  
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1 probable, rather than merely plausible. *See Bell Atlantic v. Twombly*, 550 U.S.  
2 544, 557 (2007). Such factual allegations are absent here.

3 Plaintiff, for example, alleges that CodePink “operatives” harassed CNN  
4 anchor Dana Bash at a synagogue while she was there to worship. Yet the very  
5 article he cites for this claim shows that Bash was giving a lecture there. TA  
6 photograph in the article Plaintiff incorporates shows Bash standing next to a  
7 projection screen with her name, “DANA BASH” in giant letters, and holding  
8 several file folders. TAC ¶¶ 66-67, fn. 47.<sup>3</sup> Plaintiff also alleges that someone from  
9 CodePink assaulted a Republican Congressman at the 2024 Republican  
10 Convention—but *never allege that CodePink directed or ratified this*. TAC ¶ 64.<sup>4</sup>

11 Plaintiff’s efforts to compare the red triangle symbol with the “WANTED”  
12 posters that were published shortly before abortion doctors were murdered will not  
13 save this claim, for Plaintiffs have failed to allege *even one incident* in the United  
14 States where anyone targeted with a red triangle was then violently assaulted. By  
15 contrast, as this Court has recognized, WANTED posters were repeatedly followed  
16 by murder, which was the key fact that rendered them true threats. *See* Dkt. 131, p.  
17 21.

18 Plaintiff fails to advance plausible facts that would transform a hyperbolic  
19 image on social media to a true threat, or facts to show even a reckless state of mind  
20 on the part of the poster. The scant facts Plaintiff *does* allege are often belied by the  
21 evidence he invokes. There are simply not enough facts alleged here to strip  
22 CodePink’s speech of its First Amendment protections.

23 \_\_\_\_\_  
24 <sup>3</sup> Courts “need not accept as true allegations that contradict matters properly subject  
25 to judicial notice or by exhibit” incorporated by reference. Gonzalez v. Planned  
26 Parenthood of L.A., 759 F.3d 1112, 115 (9th Cir. 2014), Saldana v. Occidental  
Petroleum Corp., 774 F.3d 544, 551 (9th Cir. 2014).

27 <sup>4</sup> CodePink not only denied it—they filed an Ethics Complaint with the House of  
28 Representatives, seeking a forum to prove Orden was lying. But defendants  
acknowledge that the Court is required to credit the allegation nonetheless.

1                                   **3. Plaintiff Fails to Plausibly Allege Intent to Injure,**  
2   **Interfere With, or Intimidate Him—a Reckless Mens**  
3   **Rea is Insufficient**

4           Even if Plaintiff could plausibly allege that CodePink published a true threat,  
5 that would still be insufficient to constitute a violation of the FACE Act, because  
6 that statute requires a Defendant to have “intentionally” injured, intimidated, or  
7 interfered with the Plaintiff or attempted to do so. A reckless *mens rea* is insufficient  
8 to show a violation of 18 USC § 248(a)(2). Plaintiffs utterly fail to allege *any*  
9 particular intent by CodePink when it made the posts. This Court may not infer an  
10 intent that is nowhere alleged in the complaint, and as such, Plaintiff fails to plead  
11 this element of the invoked cause of action.

12           The statute specifically defines “intimidate” as placing one in “reasonable  
13 apprehension of bodily harm,” and “interfere with” as restricting a person’s freedom  
14 of movement. 18 U.S.C. § 248(e)(2)-(3). Plaintiff fails to allege facts plausibly  
15 showing CodePink intended to place him in reasonable apprehension of bodily  
16 harm, restrict his freedom of movement, or injure him. Plaintiff does not allege that  
17 CodePink intended to communicate with him *at all*, much less that it intended to  
18 place him in fear of bodily harm. Nor does Plaintiff allege that CodePink intended to  
19 restrict his freedom of bodily movement, and he certainly does not allege that  
20 CodePink intended to injure him.

21           Absent *some* factual allegation regarding CodePink’s actual intent behind the  
22 posts, the TAC fails to plead a required element of 18 USC § 248(a)(2), and his  
23 claim must be dismissed.

24                                   **4. CodePink’s Alleged Activities Constitute Protected**  
25   **First Amendment Speech and Advocacy**

26           Demonstrations, marches, and picketing are undeniably protected First  
27 Amendment activities. Collins v. Jordan 110 F.3d 1363, 1371 (9th Cir. 1996). This  
28

1 includes protests far more aggressive than this one. Gerber v. Herskovitz, 14 F.4th  
2 500, 504, 508-509 (6th Cir. 2021) (First Amendment protected regular, prolonged  
3 protests in front of a synagogue routinely held during scheduled worship, even with  
4 inflammatory signs saying “Resist Jewish Power.”).

5 Even where protected First Amendment speech becomes intertwined with  
6 someone’s later illegal conduct, the solution is to punish the conduct, not the speech.  
7 Id. The FACE Act forbids construing its language to capture “expressive conduct”  
8 such as CodePink’s social media posts, which are “protected from legal prohibition  
9 by the First Amendment.” 18 U.S.C. § 248(d)(1). Plaintiff cannot plausibly allege a  
10 violation based on CodePink’s protected speech.

11 **5. Plaintiff Fails to Plausibly Allege a Theory of Agency**  
12 **that Renders CodePink Liable for the Acts of**  
13 **Individual Protesters**

14 As this Court has previously held, “Plaintiffs do not allege facts sufficient...  
15 to establish and theory of agency” because they “(incorrectly) rely on their  
16 allegations that CodePink and PYM endorsed disruptive and/or violent protest  
17 through their social media posts.” Dkt. 105, p. 30. Those allegations do not make it  
18 plausible that the alleged CodePink members who allegedly engaged in obstruction  
19 “agreed to do so *on behalf of* CodePink and PYM and *subject to* their control.” Id.  
20 As such, Plaintiff fails to plead specific facts that plausibly render CodePink liable  
21 for any conduct engaged in by individuals at the protest.

22 Plaintiff adds no new factual allegations to the TAC, that point to agency or  
23 ratification and therefore the law of the case dictates that CodePink cannot be held  
24 liable for the acts of individual protesters. (Plaintiff incorporates several Instagram  
25 posts that were also in the SAC. The newly added posts do not show or discuss  
26 anyone blocking the synagogue entrance but instead focus on the actions of the  
27 LAPD. *See* TAC ¶¶ 320-323, fns. 84-87.) We *do* see a line of police at the  
28

1 synagogue entrance with an 8'-10' gap between them and the demonstrators, who  
2 are further away from the entrance. (We also hear, on the clip incorporated by fn  
3 87, an older woman standing with a group of Israeli-flagged counterprotesters,  
4 yelling at young women demonstrators that she hopes they will be raped.)

5 **B. This Court Lacks Jurisdiction to Shield and Facilitate the**  
6 **Commission of War Crimes in Violation of International Law, as**  
7 **Plaintiff Requests**

8 This Court may take judicial notice that all nations are subject to international  
9 humanitarian law (the law of war/armed conflict) and human rights law, and  
10 particularly to customary international law regardless of their signatory status. U.N.  
11 member states including the U.S. are bound to abide by and refrain from aiding and  
12 abetting violations of these international principles.<sup>5</sup> This includes an obligation not  
13 to permit misusing its legal system to shield the wrongful act.<sup>6</sup>

14 **1. MHI's Real Estate Sales Events Aid and Abet Violations of**  
15 **International Law**

16 When Defendants labelled the MHI real estate sale an international war  
17 crime, this was not hyperbole, but invoked established international law principles.  
18 As the International Court of Justice ruled in 2024, Israel's occupation of Gaza and  
19 the West Bank, along with the associated settlement regime, annexation, and use of  
20 natural resources, is unlawful.<sup>7</sup> This Court can take judicial notice that at the time of  
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24 <sup>5</sup> United Nations Charter, Art. 1(1)-(3), <https://tinyurl.com/5n7fdwvc>.

25 <sup>6</sup> International Law Commission, *Articles on State Responsibility*, Art. 16, available  
at <https://tinyurl.com/53d6p6f8>.

26 <sup>7</sup> United Nations, OHCHR, Press Release, "Experts hail ICJ declaration on illegality  
27 of Israel's presence in the occupied Palestinian territory as 'historic' for Palestinians  
28 and international law," July 30, 2024, available at <https://tinyurl.com/4bptuzka>.

1 the protest in question, MHI listed real estate for sale in several areas of the  
2 occupied West Bank, including in the illegal, Jewish-only settlements.<sup>8</sup>

3 **2. The United States is Party to the Fourth Geneva**  
4 **Convention Prohibiting Confiscating Land and Forcibly**  
5 **Transferring Populations**

6 The Fourth Geneva Convention, to which the U.S. is a party, prohibits  
7 forcibly confiscating or annexing land or transferring populations into and out of the  
8 territory.<sup>9</sup> The Geneva Conventions and the Hague Regulations are customary  
9 international law and thus universally binding.<sup>10</sup> Plaintiff demands that this Court  
10 obstruct accountability for violations of the Geneva Conventions. He would have  
11 this Court abrogate the United States' obligations as a High Contracting Party per  
12 Common Article 1.<sup>11</sup>

13 **3. Israel's Annexation, Confiscation, and Settlement Practices**  
14 **Constitute Crimes Against Humanity and War Crimes**

15 Israel's settlement practice constitutes a war crime and a crime against  
16 humanity, violating international humanitarian law principles prohibiting  
17

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18  
19 <sup>8</sup> Nevin Kallepalli, "The Disastrous 'Great Israeli Real Estate Event'," Curbed  
20 (March 18, 2024). <<https://www.curbed.com/article/the-disastrous-great-israeli-real-estate-event.html>>. Although the MHI website now appears to have removed the  
21 specific listings in the illegal settlements, the listings are viewable through online  
22 internet archives such as Wayback Machine, and were still on the website in June 2024.

23 <sup>9</sup> The Fourth Geneva Convention Relative to the Protection of Civilian Persons in  
24 Time of War, 1949, Art. 47, available at <https://tinyurl.com/2aa2ujy6>; *Id.* at Art. 49,  
25 available at <https://tinyurl.com/32htsmyz>; *Id.* at Art. 147, available at  
<https://tinyurl.com/3xt43az6>.

26 <sup>10</sup> International Committee of the Red Cross ("ICRC"), *Customary International*  
*Humanitarian Law*, available at <https://tinyurl.com/k2at4v4c>.

27 <sup>11</sup> The Fourth Geneva Convention, 1949, Art. 1, available at  
28 <https://tinyurl.com/mttw42sh>.

1 establishing settlements in occupied territories to confiscate occupied land.<sup>12</sup> The  
2 1907 Hague Regulations IV, to which the U.S. is a party, prohibits land annexation  
3 and confiscating private property, and requires the occupying state to only  
4 administer and usufruct occupied territory to safeguard their capital.<sup>13</sup> Rule 130 of  
5 the ICRC's customary international law database provides that "[s]tates may not  
6 deport or transfer parts of their own civilian population into a territory they occupy,"  
7 and this prohibition is binding customary international law.<sup>14</sup>

8 In addition to constituting war crimes and crimes against humanity under  
9 international humanitarian law, Israel's settlement regime also violates numerous  
10 international human rights law treaties.<sup>15</sup> The 1973 U.N. Convention on the  
11 Suppression and Punishment of the Crime of Apartheid deems Apartheid an entirely  
12 separate crime against humanity.<sup>16</sup> Israel's settlement project violates these long-  
13 standing customary international humanitarian and human rights law principles by  
14 forcibly transferring its occupying population to the Occupied Territories via its  
15 settlements, and by enforcing a regime of racial apartheid.

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19 <sup>12</sup> ICRC, *Customary International Humanitarian Law*, available at  
20 <https://tinyurl.com/k2at4v4c>.

21 <sup>13</sup> 1907 Hague Regulations IV, Respecting the Laws and Customs of War on Land  
22 and its Annex: Regulations Concerning the Laws and Customs of War on Land,  
23 available at <https://tinyurl.com/2hwzu7h5>.

24 <sup>14</sup> ICRC, *International Humanitarian Law Database*, Rule 130, available at  
25 <https://tinyurl.com/yay4rddd>.

26 <sup>15</sup> The International Convention on the Elimination of All Forms of Racial  
27 Discrimination ("ICERD"), to which the U.S. is a party, Article 1 prohibits racial  
28 discrimination and condemns racial segregation and apartheid. ICERD, 1965,  
available at <https://tinyurl.com/fjzy2c59>.

<sup>16</sup> Convention on the Suppression and Punishment of the Crime of Apartheid, 1976,  
Art. 1, available at <https://tinyurl.com/yc7kfj9x>.



1 In conclusion, this Court cannot legally shield or facilitate violations of  
2 international law in such a way as to render itself culpable. As such an exercise of  
3 jurisdiction would be *ultra vires*, the TAC must be dismissed.

4 **C. Plaintiff Cannot Satisfy the Requirements for Class Certification**

5 Class allegations may be dismissed where “there is no reasonable possibility  
6 that the plaintiff could establish a community of interest among the potential class  
7 members and that individual issues predominate over common questions of law and  
8 fact.” Blakemore v. Superior Ct., (2005) 129 Cal. App. 4th 36, 53, citing Clausing v.  
9 San Francisco Unified School Dist. (1990) 221 Cal.App.3d 1224, 1234. Where each  
10 class member’s ability to recover depends on facts unique to them, there is no  
11 reasonable possibility the named Plaintiff can plead a prima facie community of  
12 interests among class members. Prince v. CLS Transportation, Inc., (2004) 118 Cal.  
13 App. 4th 1320, 1323–24. Where each claim requires individually determining each  
14 potential class member’s right to recover, there is no community of interest,  
15 commonality or typicality among potential members. *Id.*

16 The TAC demonstrates the need for individualized facts determining each  
17 class member’s recovery right. Plaintiff Helmann alleges being confronted by John  
18 and Jane Does yelling at him, scaring him such that he ultimately decided to go  
19 home. TAC ¶¶ 11-3. SCLJ Member #1 alleges no threats, yelling or intimidation,  
20 but used a side entrance after learning of it on Whatsapp. TAC ¶¶ 264-7. SCLJ  
21 Member #6 attended morning prayers before the protests, remained inside, but when  
22 the protests began could not focus on the Torah because of the commotion outside.  
23 TAC ¶¶ 291-2. These are just a few examples of the widely varying individual  
24 experiences and facts that nullify the purported class’s commonality and typicality,  
25 and make it impossible for Plaintiff to plead a prima facie community of interests  
26 among class members.

27 //

1       **VI. DEFENDANTS' MOTION TO STRIKE**

2       The Court may strike any “redundant, immaterial, impertinent, or scandalous  
3 matter” from a complaint. Fed.R.Civ.Proc. 12(f). This is proper where doing so is  
4 “necessary to avoid prejudice or will further the interests of judicial efficiency.” In  
5 re Honest Co., Inc. Sec. Litig., 343 F.R.D. 147, 150 (C.D. Cal. 2022).

6       The TAC contains scandalous and impertinent allegations against CodePink  
7 and co-defendant PYM wholly unrelated to the causes of action here. Their only  
8 purpose is to prejudice Defendants before the Court and the public by scandalously  
9 maligning them as antisemitic terrorism supporters.<sup>17</sup> Defendants move to strike the  
10 following:

- 11       a. Paragraph 8’s text: “(two organizations that seek to destroy the Jewish State  
12 of Israel).” No facts are plead showing CodePink “seek[s] to destroy” Israel;  
13 this smear is included to scandalize and prejudice Defendants, has nothing to  
14 do with the plead causes of action and is irrelevant.
- 15       b. Paragraph 28’s text: “that supports the terrorist organization Hamas and  
16 opposes the State of Israel.” This is strikable for the same reasons as the  
17 above. Plaintiff makes no allegation that could support the claim that  
18 CodePink “supports” Hamas, it is impertinent to the invoked causes of action,  
19 and it is clearly scandalous and intended to prejudice CodePink.
- 20       c. Paragraphs 31-33 entirely. These paragraphs broadly allege CodePink “has  
21 long supported terrorists” calling to annihilate Jewish people. These rest on  
22 CodePink’s allegedly attending a conference and meeting with Palestinian  
23 elected officials. These accusations are scandalous and defamatory.

24  
25 <sup>17</sup> For example, Plaintiff alleges that CodePink members are long-time supporters of  
26 Hamas and have met with Hamas “several times.” TAC ¶ 33. This conflates meeting  
27 with elected officials from Hamas to gather information on the one hand, and  
28 actively supporting it on the other.



1 d. Paragraphs 41-46 entirely. These paragraphs accuse PYM of “terrorizing  
2 Jews” and supporting terrorism—all for participating in a conference. These  
3 claims have nothing to do with the elements of the plead causes of action and  
4 only serve to malign and prejudice the Defendants.

5 e. Paragraphs 53-78 entirely. These describe other unrelated protests CodePink  
6 and PYM allegedly supported via social media, and argue these protests  
7 required additional security and were disruptive. These allegations are  
8 irrelevant to the causes of action and included solely to malign and prejudice  
9 Defendants. No pled facts show that Defendants are even responsible for the  
10 alleged protests.

11 These sections of the TAC seek to defame Defendants as avowed terrorism  
12 supporters, which is directly prejudicial to Defendants. *See, e.g. Van Der Linden v.*  
13 *Khan*, 535 S.W.3d 179, 198 (Tex. App 2017) (“Khan alleges that falsely accusing  
14 someone of having admitted that he provided financial support to terrorists  
15 constitutes defamation per se. We agree.”); *Elhanafi v. Fox Television Stations, Inc.*,  
16 2012 WL 6569341, \*2 (Sup. Ct. Kings County, Dec. 17, 2012) (finding possible  
17 defamation where the public “might infer that plaintiffs are terrorists and/or terrorist  
18 sympathizers/abettors”). These scandalous and impertinent allegations are irrelevant  
19 to the TAC’s claims, prejudicial to Defendants, and should be stricken.

## 20 **VII. CONCLUSION**

21 The Court has a gate-keeping function, even at the pleading stage. That  
22 function is most needed when political actors dress as litigants and demand that  
23 judges turn their courtrooms into stages for ideological or even theological disputes.  
24 That is why *Iqbal* and *Twombly* demand that Plaintiff’s rhetoric be tethered to  
25 enough facts to at least make the theories plausible. Those guardrails have been  
26 entirely breached here, where Plaintiff’s hyperbole recasts a constitutionally  
27 protected call for legal protest against an illegal real estate event as a campaign of  
28


1 terror. The law requires more of Plaintiff than hyperbole. There must be at least a  
2 nod to the reality-based community. Plaintiff has utterly failed at even this most  
3 basic requirement, and fails to identify facts making their claims plausible or  
4 establishing Article III standing.

5 Because Plaintiff has failed *four times* to plausibly plead his invoked causes  
6 of action, and because further amendment would be a futile waste of the Court's  
7 resources, this complaint should be dismissed with prejudice.

8 Respectfully submitted,

9 Dated: July 17, 2025

KLEIMAN / RAJARAM

10  
11 By:   
12 Mark Kleiman


13 Attorneys for Defendants  
14 CODEPINK WOMEN FOR PEACE  
15 CODEPINK ACTION FUND  
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**L.R. 11-62 CERTIFICATE OF COMPLIANCE**

The undersigned counsel of record for Defendants CODEPINK WOMEN  
FOR PEACE CODEPINK ACTION FUND certifies that this brief contains 6,025  
words which complies with the limit of L.D. 11-6.1.

Dated: July 17, 2025

KLEIMAN / RAJARAM

By:   
Mark Kleiman

Attorneys for Defendants  
CODEPINK WOMEN FOR PEACE  
CODEPINK ACTION FUND